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Attorneys for Defendants  
AHERN RENTALS, INC.  
AX TRANSPORTATION LLC

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

KENNETH FANK, on behalf of himself  
and all other similarly situated:

Plaintiff,

vs.

AHERN RENTALS, INC; AX  
TRANSPORTATION LLC; DOES 1-10;  
and ROE CORPORATIONS 11-20,  
inclusive;

Defendants.

Case No.

**NOTICE TO FEDERAL COURT OF  
REMOVAL OF CIVIL ACTION FROM  
STATE COURT**

**[28 U.S.C. §§ 1331, 1367, 1441, AND 1446]**

**[FEDERAL QUESTION]**

TO THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA:

NOTICE IS HEREBY GIVEN that Defendants AHERN RENTALS, INC. (hereinafter “Ahern”) and AX Transportation LLC (hereinafter “AX Transportation”) (collectively “Defendants”) hereby remove the above-entitled action from the Eighth Judicial District Court in and for the County of Clark, State of Nevada, to the United States District Court for the District of Nevada pursuant to 28 U.S.C. §§ 1331, 1367, 1441(a) and (c), and 1446. This removal is based independently upon federal question jurisdiction. This removal is timely. A true and correct copy of the Notice to State Court of Removal of Action to Federal Court is attached hereto and incorporated herein as **Exhibit A**.

In support of this Notice of Removal, Defendants state to the Court as follows:

1. On April 22, 2020, an action was commenced in the Eighth Judicial District Court of

1 Clark County, Nevada, entitled KENNETH FANK v. AHERN RENTALS, INC.; AX  
2 TRANSPORTATION LLC, DOES 1-10; and ROE CORPORATIONS 11-20, inclusive, Case Number  
3 A-20-814011-C. A true and correct copy of Plaintiff's Complaint is attached hereto as **Exhibit B**.

4 2. The first date upon which Defendant received notice of Plaintiff's Complaint was May  
5 13, 2020, when Defendants were served. Accordingly, this Notice of Removal is timely. A true and  
6 correct copy of the Proof of Service is attached hereto as **Exhibit C**.

7 3. This Court has original jurisdiction over this action under 28 U.S.C. § 1331 and  
8 removal jurisdiction under 28 U.S.C. § 1441(a) in that the Second Cause of Action alleges that  
9 Defendants violated Plaintiff's rights under the Americans with Disabilities Act ("ADA"). Such a  
10 claim arises under federal law and, thus, is subject to federal jurisdiction pursuant to 28 U.S.C. § 1331.  
11 Further, 42 U.S.C. § 12112 of the ADA specifically provides that an ADA claim may be brought in  
12 federal court. Pursuant to 28 U.S.C. § 1367, any other claims Plaintiff alleges are within this Court's  
13 supplemental jurisdiction as they form part of the same case or controversy giving rise to Plaintiff's  
14 ADA claim.

15 4. Accordingly, this action is a civil action for which this Court has original jurisdiction  
16 under 28 U.S.C. § 1331, which provides that United States district courts "shall have original  
17 jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States."  
18 As noted, this action may be removed to this Court pursuant to the provisions of 28 U.S.C. § 1441(a)  
19 because Plaintiff is asserting claims arising under federal law.

20 5. Venue is proper in this Court as this is the Court for the district and division embracing  
21 the place where the action is pending in state court, in accordance with 28 U.S.C. § 108 and 1441(a).

22 6. This Court has supplemental jurisdiction over the remaining state law claims pursuant  
23 to 28 U.S.C. § 1367.

24 7. The Notice to the Adverse Parties of Removal to Federal Court was filed in state court  
25 and served simultaneously herewith, in accordance with 28 U.S.C. § 1446(d).

26 8. The Notice to State Court of Removal of Civil Action to Federal Court was filed in  
27 state court and served simultaneously herewith, in accordance with 28 U.S.C. § 1446(d).

28 9. No other defendants are required to join this Notice of Removal.

1 WHEREFORE, Defendants pray that the above-referenced action now pending against them  
2 in the Eighth Judicial District Court in and for the County of Clark, State of Nevada, be removed  
3 therefrom to this Court.

4 Dated: June 3, 2020

5 Respectfully submitted,

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7 PATRICK H. HICKS, ESQ.  
8 KELSEY E. STEGALL, ESQ.  
9 LITTLER MENDELSON, P.C.

10 Attorneys for Defendants  
11 AHERN RENTALS, INC.  
12 AX TRANSPORTATION LLC  
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**PROOF OF SERVICE**

I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the within action. My business address is 3960 Howard Hughes Parkway, Suite 300, Las Vegas, Nevada 89169-5937. On June 3, 2020, I served the within document(s):

**NOTICE TO FEDERAL COURT OF REMOVAL OF CIVIL ACTION FROM STATE COURT**



By CM/ECF Filing – Pursuant to FRCP 5(b)(3) and LR 5-4, the above-referenced document was electronically filed and served upon the parties listed below through the Court’s Case Management and Electronic Case Filing (CM/ECF) system:

Gabroy Law Offices  
Christian Gabroy, Esq.  
Kaine Messer, Esq.  
The District at Green Valley Ranch  
170 South Green Valley Parkway,  
Suite 280  
Henderson, NV 89012  
Email: [christian@gabroy.com](mailto:christian@gabroy.com)  
Email: [kmesser@gabroy.com](mailto:kmesser@gabroy.com)

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 3, 2020, at Las Vegas, Nevada.

/s/ Maribel Rodriguez  
Maribel Rodriguez

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